IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

THEODORE S. LUCERO,   )
)
        Plaintiff.   )
)
vs.   )   2:05-CV-00275-DRB
)   [wo]
SOUTHERN MICRO SYSTEMS, INC.,   )
)
        Defendant.   )

ORDER ON MOTION

In this civil action scheduled for jury trial on May 15, 2006, the Defendant filed on April 7

its *Motion to Continue,* alleging by affidavit of its president that *"the Defendant is in the processing of*

finalizing its plans to file for bankruptcy protection." (Doc. 39).   Based on the representations of

counsel during the scheduled pretrial hearing on April 13, 2006, the court has no basis for

questioning Defendant's good faith or the imminent filing of a bankruptcy petition alleging the

corporation's insolvency and intent to dissolve.

Until the filing of a bankruptcy petition, which will stay automatically this and any other

pending actions, the parties are instructed to continue either their reasonable negotiations to reach

a final compromise for a stipulation of dismissal for this civil action *or* to proceed with preparations

for trial on the scheduled term.   Considering the   disputed issues of liability and the requested

monetary remedy also in dispute – as shown from the proposed pretrial order and discussion at the

pretrial hearing – as well as the compromises apparently reached through mediation and settlement

negotiations – the court strongly encourages the litigants to reconsider, carefully and honestly,

whether any meaningful interests will be served by litigating this conflict or having this action stayed

pending the completion of bankruptcy proceedings, the outcome of which may bar any trial.

It is, therefore

ORDERED that the *Motion to Continue* (Doc. 39) is **DENIED** without prejudice for

reconsideration upon notice of filing for the bankruptcy petition now being considered.

Done this 14th day of April, 2006.

/s/ Delores R. Boyd
            DELORES R. BOYD
            UNITED STATES MAGISTRATE JUDGE